

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: **Konrad Herrman et al.**

Serial No.: 09/830,518

Filing Date:

Title: POLYCYCLIC PYRIMIDINE -2,4 (1H, 3H)- DIONES WITH FUNCTIONALIZED  
ALKYL RESIDUES AT THE 1- AND/OR 3-POSITION(S); METHODS FOR  
THEIR SYNTHESIS AND PHARMACEUTICAL PREPARATION

Examiner:

Art Unit:

International Application No.: PCT/EP00/08126

International Filing Date: 21 August 2000

Priority Date: 26 August 1999

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November 28, 2001

Attorney's Docket No.: NNG201

**PETITION TO ACCORD THE CORRESPONDENCE FILING DATE  
AND TO WAIVE THE PRESUMPTION OF ABANDONMENT  
UNDER 37 C.F.R. 1.10(c)**

Commissioner for Patents  
Box PCT  
Washington, D.C. 20231

SIR:

This is in response to the Decision mailed on November 14, 2001 in the above-identified patent application and stating that this application is abandoned as to the United States of America because the applicants did not timely file the basic national fee.

The applicants respectfully submit that there is a discrepancy between the filing date accorded by the U.S. Patent and Trademark Office of April 27,

2001 relative to the correspondence and the date of deposit of April 26, 2001 as shown by the "date-in" on the "Express Mail" mailing label.

In order to fulfill the basis requirements necessary to enter the U.S. national phase under the Patent Cooperation Treaty and under 35 U.S.C. §371, the following documents were mailed by Express Mail, label No. **TB173 617 191 US**, to the U.S. Patent and Trademark Office on **April 26, 2001**:

- Form FTO-1390,
- Copy of the International PCT Application No. PCT/EP00/08126, as filed,
- English Translation of PCT Application No. PCT/EP00/08126,
- "Preliminary Amendment" dated April 23, 2001
- "Request to Accept Patent Application for Entering U.S. National Phase 35USC §371" with "Claim of Priority",
- Form PTO-1449,
- copy of the International Search Report with copies of references cited therein,
- credit card information and authorization form (Form PTO-2038)

Photocopies of the following documentary evidence that supports a submission of the aforementioned documents to the U.S. Patent and Trademark Office on **April 26, 2001** are enclosed with the present petition:

1) Transmittal Letter including Express Mail Certification executed by Thomas Heymann on April 26, 2001 and including the "Express Mail" mailing number,

2) "Express Mail" mailing label No. TB173 617 191 US showing the "date-in" as "4/26/01",

3) "Express Mail" corporate Account Mailing Statement by the United States Postal Service, for the undersigned attorney, for the period 04/21/01 – 05/18/01, the correspondence with the associated with "Express Mail" mailing No. TB173 617 191 US, was deposited with the United States Postal Service on April 26, 2001.

According to 37 CFR § 1.10(a), any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS, where the date of deposit with the USPS is shown by the "date-in" on the Express Mail mailing label or other official USPS notation.

The date of deposit of the instant mailing was April 26, 2001.

Since the applicants deposited their correspondence, including the national basic fee necessary for entry into the U.S. national phase under the

Patent Cooperation Treaty and under 35 U.S.C. §371, with the USPS on April 16, 2001 as confirmed by the USPS, it is believed that said basic national fee was timely received by the U.S. Patent and Trademark Office. Consequently, it is believed that the present application should have not been abandoned.

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The applicants petition showing that the Commissioner for Patents to withdraw the holding of abandoned label application and to accord the correspondence mailed by "Express Mail" on April 26, 2001 a filing date as of the "date-in" on the "Express Mail" receipt, i.e. "4/26/01".

Alternatively, the applicants petition to revive the present application as unavoidably abandoned in view of the circumstances set forth above.

Consideration of the present petition is respectfully requested.

Respectfully submitted,

Konrad Herrman et al.

By:   
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Reg.: 28,559; Docket No.: NNG201

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